IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 32372 of 2007(D)

PETITIONER:

ADBUL HAKKIM,AGED 44 YEARS,
S/O. HASANNARUKUNJU, 'RINCY MANZIL',
AMBAZHAVAYAL, PANAYAM VILLAGE,
PERINADU P.O., KOLLAM.

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENTS:
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1. **STATE OF KERALA**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE SUB INSPECTOR OF POLICE**
   ANJAALUMMOODU POLICE STATION ,KOLLAM.

3. **THE HEAD LOAD AND GENERAL WORKERS**
   UNION (CITU), THANIKKAVUMUKKU UNIT, PERINADU PO,
   KOLLAM DISTRICT-691 601,REPRESENTED BY ITS
   CONVENER SRI.RAJENDRAN.

4. **THE HEAD LOAD AND GENERAL WORKERS UNION**
   (UTUC)THANIKKAVUMUKKU UNIT, PERINADU PO,
   KOLLAM DISTRICT-691 601,REPRESENTED BY ITS
   SECRETARY,SRI.JAMALUDHEEN.

5. **THE BHARATHIYA MAZDOOR SANGH (B.M.S)**
   THANIKKAVUMUKKU UNIT, PERINADU PO,
   KOLLAM DISTRICT-691 601,REPRESENTED BY ITS
   SECRETARY,SRI. ANIL.

BY GOVERNMENT PLEADER SRI. P.A.SALIM for R1
BY ADV. SRI.N.NAGARESH for R5
SRI.B.MOHANLAL
SRI.T.N.MANOJ for R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.32372/2007 D

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE CERTIFICATE OF REGISTRATION OF KVAT.**

EXT.P2: **COPY OF THE KYCHEET DTD. 25/09/2007.**

EXT.P3: **COPY OF THE LICENSE ISSUED BY THE SECRETARY, PANAYAM GRAMA PANCHAYAT.**

EXT.P4: **COPY OF THE COMPLAINT SUBMITTED BEFORE THE 2ND RESPONDENT.**

EXT.P5: **COPY OF THE S.R.O.NO.1161/2000.**

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): **COPY OF IDENTITY CARD ISSUED TO ANILKUMAR UNDER THE HEADLOAD WORKERS ACT AND RULES.**

EXT.R3(B): **COPY OF THE COMPLAINT LODGED BEFORE THE ASSISTANT LABOUR OFFICER, KUNDARA.**

4TH RESPONDENT'S EXHIBITS:

EXT.R4(A): **COPY OF THE IDENTITY CARD REGISTRATION NO.02/04/1/90 ISSUED BY THE ASSISTANT LABOUR OFFICER, KUNDARA.**

EXT.R4(B): **COPY OF THE PASS BOOK ISSUED BY THE KERALA HEADLOAD WORKERS WELFARE FUND BOARD COMMITTEE, KOLLAM.**

5TH RESPONDENT'S EXHIBITS:

EXT.R5(A): **COPIES OF THE REGISTRATION IDENTITY CARDS ISSUED TO HEADLOAD WORKERS BELONGING TO 5TH RESPONDENT UNION.**

EXT.R5(B): **COPY OF SETTLEMENT DTD. 3/09/2006 BETWEEN KERALA VYAPARI-VYAVASAYI EKOPANA SAMITHY AND UNION RESPRESENTATIVES.**

EXT.R5(C): **COPY OF WAGE RATES FIXED IN PURSUANCE OF EXHIBIT R5(B) SETTLEMENT DTD. 3/09/2006.**

EXT.R5(D): **COPY OF WAGE RATES DTD. 8/04/2006 IN RESPECT OF BSNL GOODS.**

EXT.R5(E): **COPIES OF WAGE RECEIPTS ISSUED TO MR.NAUSHAD FOR LOADING/UNLOADING BOTTLES.**

EXT.R5(F): **COPY OF THE LETTER DTD.22/10/2007 SUBMITTED TO THE ASSISTANT LABOUR OFFICER, KUNDARA.**

/TRUE COPY/

P.S.TO JUDGE

KSS

K.BALAKRISHNAN NAIR &
K.P.BALACHANDRAN, JJ.

W.P.(C) NO. 32372 OF 2007-D

Dated 27th November, 2007.

JUDGMENT

Balakrishnan Nair, J.

This Court has already passed an interim order in this writ petition on 20.11.2007. In view of the said interim order, no further orders are required in this writ petition. But, it is clarified that the direction to grant protection will be subject to any orders that may be passed by the statutory authorities under the Head load Workers Act.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

K.P.BALACHANDRAN, JUDGE.

Nm/

K.BALAKRISHNAN NAIR &

K.P.BALACHANDRAN, JJ.

W.P.(C) NO. 32372 OF 2007-D

Dated 20th November, 2007.

ORDER

Balakrishnan Nair, J.

Heard. The petitioner seeks protection for loading and unloading of bottles in his establishment in Panayam Grama Panchayat. According to him, it is not a scheme covered area. The workmen assert that it is a scheme covered area and therefore, in the absence of registered head load workers, the workmen of the local pool are entitled to do the unloading work.

2. The learned Government Pleader is directed to get instruction whether this area is covered by the scheme under the Kerala Head load Workers' Act. Pending settlement of the above dispute as to whether the said scheme is extended to the area in question, we feel that the petitioner should be allowed to do the loading/unloading work, employing his workmen. If any obstruction is caused by respondents 3 to 5, the petitioner may inform the 2nd respondent. In that event, the 2nd respondent shall remove the obstruction. This direction is issued without prejudice to the contentions of both sides. It is also clarified that this direction will not affect the powers of the statutory authorities under the Head load Workers' Act, to settle the dispute and they need not be influenced by the direction

issued by this Court, while taking a decision in the dispute.

Post next week in the 500 list.

Hand over the order.

K.BALAKRISHNAN NAIR, JUDGE.

K.P.BALACHANDRAN, JUDGE.

Nm/